

## **REMARKS / ARGUMENTS**

### **Claims Status**

Claims 1-31 were pending in this application. Claims 1-17 stand rejected. Claims 18-31 were objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form. In this Amendment and Response, Applicants amend claim 18 to place it into independent form. Applicants respectfully traverse the rejection of claims 1-17, and respectfully request that the Examiner reconsider the rejections in light of the following remarks.

### **Claim Rejections**

In the Office Action, Claims 1-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,446,049 to Janning et al. ("Janning") in view of U.S. Patent No. 6,314,406 to O'Hagan et al. ("O'Hagan") and further in view of U.S. Patent No. 5,878,141 to Daly et al. and U.S. Patent No. 6,662,166 to Pare, Jr. Claims 16-17 were rejected as unpatentable over O'Hagan in view of Janning and further in view of Daly et al. Applicants respectfully submit that the claims as amended are patentable over the references cited in the Office Action.

### **Janning**

A stated object of Janning is to provide "a transmission system for digital information that permits such digital information to be transmitted from a substantively electrically shielded environment." Col. 3, lines 40-45. Janning communicates billing information to a transceiver in the form of a radio signal:

Once the dispenser transceiver 22 is positioned sufficiently close to the receptacle transceiver 50 to permit reception of the interrogation signal and the receptacle transceiver 50 acknowledges reception of the interrogation signal during a polling cycle of the dispenser transceiver 22, the receptacle

transceiver 50 transmits billing information (e.g., a credit card or debit card account number, expiration date, creditor identification, or any other information stored by the issuer of the charge or debit account) to the dispenser transceiver 22 in the form of a radio signal 55. . . . By using low frequency magnetic coupling to convey information instead of high frequency electromagnetic coupling, the receptacle transceiver 50 can be located within substantially electrically shielded environments physically associated with the receptacle 51 for the product, such as automobile trunks or automobile hoods, without substantially affecting transmission or reception.

Col. 9, lines 31-58.

The Janning dispenser transceiver thus communicates actual credit card or debit card information to a receptacle transceiver. Janning states that systems that encode a transponder “with a secondary account number that identifies, but does not actually represent, an actual credit card or debit account number” (col. 2, lines 63-65) are deficient because “such an approach limits or complicates universal acceptance of the system by vendors other than the issuer of the transponder due to the need to make available to other vendors a database cross referencing the actual and secondary account numbers.” Col. 2, line 66- Col. 3, line 3.

### **O’Hagan**

O’Hagan is a retail customer information system allows “a customer to scan coupons at home with a scanner coupled to the customer’s home computer.” Col. 3, lines 14-16. The customer “can access the store[']s host computer.” Col. 3, line 18. The customer then can “generate a shopping list through the host computer and apply the coupon list against the shopping list.” When at the store, the customer gains access to the shopping list by using a “shopping cart with a portable computing device (i.e., a mobile terminal) attached thereto.” Col. 3, lines 25-27. The portable computing device then helps the customer find the items in the list and scan the items for check-out:

The host computer via the access points and host computer can guide the customer through the store in the most efficient manner. For example, the host computer can generate a map and protocol for the user to find the products desired without having to go back and forth through the store.

Furthermore, the customer can scan the products found at the store with the bar code scanner attached to the portable computing device before placing the products in the cart. This aspect along with the avoidance of handing over paper coupons at checkout substantially reduces the length of time necessary at the check-out line.

Col. 3, lines 30-42.

**Daly et al.**

Daly is “an electronic computerized purchasing system that is particularly well suited for an interactive networked environment.” Col. 3, lines 42-44. The system facilitates on-line payments by customers to merchants. “The purchasing system permits the purchaser to choose a desired product from a particular merchant, arrange a suitable payment method, and confirm a purchase transaction all electronically and without any human interaction between the purchaser and merchant.” Col. 3, lines 44-47. Daly facilitates the selection of a payment method that is acceptable to the purchaser and the merchant:

The purchasing system of this invention mediates the purchase by providing a choice of suitable payment methods from which a purchaser can select a desired method, while preventing the merchant from gaining access to the purchaser personal payment options or account information. Additionally, the purchasing system ensures for the merchant that the purchaser has sufficient funds in the selected account, and that a fully enforceable transaction has occurred.

Col. 3, lines 48-53.

**Pare Jr.**

Pare Jr. is directed to “tokenless” biometric electronic debit and credit transactions. Pare Jr. attempts to address the “inconveniences and security vulnerabilities” that Pare Jr. sees in token-based systems. Col. 1, lines 57-66. Specifically, Pare Jr. provides “a method and device for tokenless authorization of an electronic payment between a payor and a payee using an electronic indicator and at least one payor bid biometric sample.” Col. 5, lines 1-5. Pare Jr. states that the Pare Jr. approach is advantageous over other systems because Pare Jr. “eliminates the need to directly possess any personalized tokens in order to access their authorized electronic financial accounts.” Col. 5, lines 50-55.

**Independent Claim 1**

Amended independent claim 1 recites, in part, “receiving at the physical retail location an identifier associated with a token presented by a customer at the physical retail location,” and “accessing customer data from a database located somewhere other than the token based on the received identifier associated with the token,” and “identifying in the customer data a product order selected by the customer,” and “identifying in the customer data a preferred payment method for the customer.”

The Office Action relies on Pare Jr. for claim features not found in the other references. Specifically, the Office Action states that “Pare Jr. discloses accessing customer data from a database located somewhere other than the token based on the received identifier associated with the token.” Pare Jr. does not and cannot show this, however, because Pare Jr. is tokenless: there is no token in Pare Jr.

Moreover, because Pare Jr. is tokenless, it teaches away from the claimed invention, which expressly recites a token. As such, it would be improper to use Pare Jr. in combination with the other references to attempt to reach the claimed invention.

**Independent Claim 16**

Amended independent claim 1 recites, in part, “receiving at the physical retail location an identifier associated with a token presented by a customer at the physical retail location” and “accessing customer data from a database located somewhere other than the token based on the received identifier associated with the token,” and “identifying in the customer data a selected product order and a preferred payment method” For reasons discussed above, this claim also is patentable over the cited references.

**Independent Claim 18**

Amended claim 18, now independent, was objected to, but said to be allowable if it included all of the limitations of the base claim, claim 16. Applicants have added the limitations of claim 16 into claim 18, and Applicants respectfully submit that claim 18 is now allowable.

**Dependent Claims 2-16 and 17, 19-31**

Dependent claims 2-16 and 17, 19-31 are patentable at least because they depend on a patentable base claim. These claims may also include other features not taught or suggested by the cited references.

**CONCLUSION**

In view of the foregoing, Applicants respectfully requests reconsideration, withdrawal of all grounds of rejection, and allowance of claims 1-31, in due course. The Examiner is invited to contact Applicants' undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,

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